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Howard & Howard Attorneys, P.C.  
The Pinehurst Office Center, Suite #101  
39400 Woodward Avenue  
Bloomfield Hills, MI 48304-5151

MAILED

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In re Application of : CENTRAL REEXAMINATION UNIT  
Christopher J. Rixon et al. :  
Application No. 10/712,915 : DECISION TERMINATING  
Filed: November 13, 2003 : REISSUE PROCEEDING  
Attorney Docket No. 65,748-907 :  
:

This is a decision terminating the instant reissue proceeding based on (1) the expiration of U.S. Patent No. 6,314,831, for which the present application requests reissue, and (2) the failure of applicant to respond to the Order To Show Cause mailed August 29, 2006.

**BACKGROUND**  
(Redrafted from the Order To Show Cause)

1. The present application ("present reissue proceeding") was filed November 13, 2003, for reissue of U.S. Patent No. 6,314,831 (the '831 patent), which issued November 13, 2001.
2. The Office's financial records reveal that the 3.5 year maintenance fee due and not paid could have been paid during the period from November 15, 2004 (November 13, 2004, was a Saturday) through May 13, 2005, or with a surcharge during the period from May 14, 2005 through November 14, 2005 (November 13, 2005, was a Sunday).
3. The Office records reveal that the '831 patent expired after midnight of November 13, 2005, for failure to pay the 3.5 year maintenance fee<sup>1</sup>. See 1302 *Official Gazette* 1229 (January 10, 2006).

**DECISION**

A review of the record reveals that the time for filing a response to the Order To Show Cause has expired and there is no indication in the record that a response to the Order To Show Cause has

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<sup>1</sup>Manual of Patent Examining Procedure § 2506 (8<sup>th</sup> ed. 2001) (Rev. 4 October 2005) states in part the following:

For example, if the grace period for paying a maintenance fee with a surcharge ended on a Saturday, the maintenance fee and surcharge could be paid on the next succeeding business day, e.g., Monday, but the patent will have expired at midnight on Saturday if the maintenance fee and surcharge were not paid on the following Monday. Therefore, if the maintenance fee and any applicable surcharge are not paid, the patent will expire as of the end of the grace period as listed above. A patent that expires for failure of payment will expire on the anniversary date the patent was granted in the 4th, 8th, or 12th year after the grant.

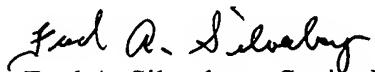
been filed. In addition, no petition addressing the failure to timely pay the 3.5 year maintenance fee has been filed. Therefore, the Director of the USPTO no longer has the authority under 35 U.S.C. 251 to reissue the '831 patent. See *In re Morgan*, 990 F.2d 1230, 26 USPQ2d 1392 (Fed. Cir. 1993).

### CONCLUSION

1. The present reissue proceeding, application No. 10/712,915 is hereby terminated.
2. Jurisdiction over the present reissue proceeding, application No. 10/712,915, is being returned to Technology Center Art Unit 3682 for processing as an abandoned application.
3. Telephone inquiries related to this decision should be directed to Fred Silverberg, Senior Legal Advisor, at (571) 272-7719 or, in his absence to Kenneth M. Schor, Senior Legal Advisor, at (571) 272-7710.



Kenneth M. Schor  
Senior Legal Advisor  
Office of Patent Legal Administration  
Office of the Deputy Commissioner for Patent Examination Policy



Conferee: Fred A. Silverberg, Senior Legal Advisor